IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.BALAKRISHNAN NAIR

MONDAY, THE 19TH MARCH 2007 / 28TH PHALGUNA 1928

WP(C).No. 13728 of 2006(H)

PETITIONER:

M/S.TAJ MAHAL MARBLES,
K.R.COMPLEX, ATTINGAL-695 101,
REPRESENTED BY ITS PROPRIETOR,
K.A.RASHEED.

BY ADV. SRI.K.J.ABRAHAM

RESPONDENT:

THE INTELLIGENCE OFFICER,
SQUAD NO.II,
COMMERCIAL TAX,
KOLLAM AT KOTTARAKKARA.

BY SR.GOVT. PLEADER MR.MOHAMMED RAFIQ

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 19/03/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P1 TRUE COPY OF FORM 10 FOR THE PERIOD APRIL 2006 DATED 12.5.2006.

EXT.P2 TRUE COPY OF THE SUPPLY ORDER DATED 15.3.2006.

EXT.P3 TRUE COPY OF THE INV.NO.5045 DATED 26.3.2006.

EXT.P4 TRUE COPY OF THE OR NOTICE NO.7/06-07 DATED 12.4.2006.

EXT.P4(A) TRUE COPY OF THE DEMAND OF ENTRY TAX NOTICE NO.ET/06-07 DATED 12.4.2006.

EXT.P5 TRUE COPY OF THE REVISED NOTICE FOR SECURITY DEPOSIT NOTICE OR NO.7/06-07 DATED 4.5.2006.

/ TRUE COPY /

K.BALAKRISHNAN NAIR, J.

W.P.(C) No.13728 of 2006

Dated this the 19th day of March, 2007.

JUDGMENT

The petitioner challenges Exts.P4(a) and P5 notices. Ext.P5 is issued under Section 47(2) of the Kerala Value Added Tax Act. Ext.P4 (a) is a notice demanding entry tax. The goods were released on furnishing bank guarantee for Rs.34,315/- and also security for Rs.68,630/-. The petitioner has been directed to furnish bank guarantee for Rs.34,315/- for entry tax demanded under Ext.P4(a). Ext.P4(a) is unsustainable in law in view of the Division Bench decision of this Court in O.P.No.434 of 1996 and connected cases. The said demand is quashed. The bank guarantee shall be released to the petitioner. The Commercial Taxes Officer (Enquiry) or the Intelligence Officer as the case may be having jurisdiction over the matter is directed to pass final orders in the proceedings initiated by issuing Ext.P5 in accordance with law within two months from the date of production of a copy of this judgment. Subject to the decision taken, the security shall be released.

Writ petition is disposed of as above.

K.BALAKRISHNAN NAIR,
Judge.

vns.